

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Richmond Division**

<b>ePLUS INC.,</b>	)	
	)	
<b>Plaintiff,</b>	)	<b>Civil Action No. 3:09-CV-620 (REP)</b>
	)	
<b>v.</b>	)	
	)	
<b>LAWSON SOFTWARE, INC.,</b>	)	
	)	
	)	
	)	
<b>Defendant.</b>	)	

**PLAINTIFF ePLUS, INC.'S NOTICE OF APPEAL**

Pursuant to Rule 4(a)(3) of the Federal Rules of Appellate Procedure, Plaintiff ePlus, Inc. (“ePlus”) hereby provides notice that it appeals to the United States Court of Appeals for the Federal Circuit from the final judgment of the District Court, entered in this action on May 25, 2011, including, without limitation, all interlocutory orders preceding that judgment, including the District Court’s claim construction.

In addition, and without limitation, ePlus also appeals from: (i) the jury’s verdict that certain accused products were not proven infringed (Docket No. 600); (ii) the Order of the District Court entered in this action on September 9, 2010 granting Defendant Lawson Software, Inc.’s (“Lawson”) Motion to Preclude ePlus From Presenting Any New Damages Theories Or From Seeking Damages At Trial (Docket No. 472); (iii) the Order of the District Court entered in this action on August 11, 2010 granting Lawson’s Motion *in Limine* No. 3: To Preclude Dr. Russell W. Mangum, III, From Testifying At Trial (Docket No. 410); (iv) the Order of the District Court entered in this action on July 23, 2010 granting Lawson’s Motion *in Limine* No. 4:

To Preclude Harry Manbeck from Testifying (Docket No. 360); (v) the Order of the District Court entered in this action on Jan. 3, 2011 denying-in-part *ePlus*'s Motion to Enforce Court Orders (Docket No. 544); and (vi) all other orders decided adversely to *ePlus*, whether in whole or in part.

Further, *ePlus* appeals from the following rulings made during the course of the trial of this action: (i) all Bench Rulings and Orders overruling *ePlus*'s objections to the admission of exhibits or the Defendant's use of demonstrative exhibits; (ii) the Order of January 14, 2011 sustaining the objection from Lawson pertaining to the relevance of the absence of an assertion of opinion of counsel with respect to the issue of inducement of infringement; and (iii) the Order of January 18, 2011 granting Lawson's Motion to Present Other Evidence That Element 40 Of Figures 1A and 2 Of The Patents-in-Suit Identifies The Fisher RIMS System As Described In The '989 Patent.

Additionally, *ePlus* appeals from any jury instructions which *ePlus* requested but the Court did not provide, which Lawson requested and, over *ePlus*'s objection, the Court did provide, and which neither party requested and, over *ePlus*'s objection, the Court did provide, including, but not limited to, (i) *ePlus*'s proposed instruction relating to joint infringement; (ii) *ePlus*'s proposed instruction regarding proof of intent to induce infringement by circumstantial evidence; and (iii) *ePlus*'s proposed instruction concerning the relevance of the absence of an assertion of opinion of counsel with respect to the issue of inducement of infringement.

Finally, *ePlus* conditionally appeals from any order of the District Court adverse to *ePlus* pertaining to any pending request for relief filed by either party and any post-trial motions that have been or will be filed by either party, including, but not limited to: (i) *ePlus*'s pending Motion for Judgment as a Matter of Law of Direct and Indirect Infringement (Docket No. 581);

(ii) *ePlus*'s pending Motion for Leave to File an Offer of Proof Regarding its Damages Claim (Docket No. 553); (iii) *ePlus*'s pending Motion for Exceptional Case Finding and Attorneys' Fees (Docket No. 739); (iv) *ePlus*'s pending Memorandum in Support of Bill of Costs (Docket No. 744); (v) *ePlus*'s post-trial Motion for Judgment as a Matter of Law of Direct and Indirect Infringement (to be filed); (vi) Lawson's pending Motion for Judgment as a Matter of Law (Docket No. 574); (vii) Lawson's pending Motion to Modify and Clarify the Injunction (Docket No. 749); and (viii) any other post-trial motion that has been or will be filed by Lawson.

Pursuant to Rule 4(a)(4)(B) of the Federal Rules of Appellate Procedure, *ePlus* will file an amended notice of appeal if the District Court enters any order adverse to *ePlus* pertaining to any pending request for relief and/or any post-trial motion that has been or will be filed by either party.

*ePlus* submits herewith the \$450.00 appeal fee required by 28 U.S.C. § 1913 and the \$5.00 filing fee required by 28 U.S.C. § 1917.

Respectfully submitted,

June 21, 2011

/s/

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**CERTIFICATE OF SERVICE**

I hereby certify that on the 21st day of June, 2011, I will electronically file the foregoing

**PLAINTIFF ePLUS, INC.'S NOTICE OF APPEAL**

with the Clerk of Court using the CM/ECF system which will then send a notification of such filing (NEF) via email to the following:

<p>Daniel McDonald, <i>pro hac vice</i> Kirsten Stoll-DeBell, <i>pro hac vice</i> William D. Schultz, <i>pro hac vice</i> Rachel C. Hughey, <i>pro hac vice</i> Andrew Lagatta, <i>pro hac vice</i> MERCHANT &amp; GOULD 3200 IDS Center 80 South Eighth Street Minneapolis, MN 55402 Telephone: (612) 332-5300 Facsimile: 612) 332-9081 lawsonservice@merchantgould.com</p>	<p>Robert A. Angle, VSB#37691 Dabney J. Carr, IV, VSB #28679 TROUTMAN SANDERS LLP P.O. Box 1122 Richmond, Virginia 23218-1122 (804) 697-1238 (804) 698-5119 (Fax) robert.angle@troutmansanders.com dabney.carr@troutmansanders.com</p>
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